

IN THE SUPREME COURT OF THE STATE OF DELAWARE

CARLOS WEATHERSPOON,	§
	§ No. 109, 2012
Defendant Below-	§
Appellant,	§
	§ Court Below—Superior Court
v.	§ of the State of Delaware
	§ in and for Kent County
STATE OF DELAWARE,	§ Cr. ID No. 1106015947
	§
Plaintiff Below-	§
Appellee.	§

Submitted: June 13, 2012

Decided: June 19, 2012

Before **STEELE**, Chief Justice, **HOLLAND** and **RIDGELY**, Justices

ORDER

This 19th day of June 2012, upon consideration of the appellant's brief filed pursuant to Supreme Court Rule 26(c), his attorney's motion to withdraw, and the State's response thereto, it appears to the Court that:

(1) The defendant-appellant, Carlos Weatherspoon, was found guilty in a Superior Court bench trial of two counts of Unlawful Sexual Contact in the First Degree.¹ On the first conviction, he was sentenced to 8 years of Level V incarceration, to be suspended after 2 years for an additional 2 years of Level III probation. On the second conviction, he was

¹ He was acquitted of two counts of Sexual Abuse of a Child by a Person of Trust in the Second Degree.

sentenced to 8 years at Level V, to be suspended after 6 months for 2 years of concurrent Level III probation. This is Weatherspoon's direct appeal.

(2) Weatherspoon's counsel on appeal has filed a brief and a motion to withdraw pursuant to Rule 26(c). Weatherspoon's counsel asserts that, based upon a complete and careful examination of the record and the law, there are no arguably appealable issues. By letter, Weatherspoon's attorney informed him of the provisions of Rule 26(c) and provided him with a copy of the motion to withdraw and the accompanying brief. Weatherspoon also was informed of his right to supplement his attorney's presentation. Weatherspoon has not raised any issues for this Court's consideration. The State has responded to the position taken by Weatherspoon's counsel and has moved to affirm the Superior Court's judgment.

(3) The standard and scope of review applicable to the consideration of a motion to withdraw and an accompanying brief under Rule 26(c) is twofold: a) this Court must be satisfied that defense counsel has made a conscientious examination of the record and the law for arguable claims; and b) this Court must conduct its own review of the record in order

to determine whether the appeal is so totally devoid of at least arguably appealable issues that it can be decided without an adversary presentation.²

(4) This Court has reviewed the record carefully and has concluded that Weatherspoon's appeal is wholly without merit and devoid of any arguably appealable issues. We also are satisfied that Weatherspoon's counsel has made a conscientious effort to examine the record and the law and has properly determined that Weatherspoon could not raise a meritorious claim in this appeal.

NOW, THEREFORE, IT IS ORDERED that the State's motion to affirm is GRANTED. The judgment of the Superior Court is AFFIRMED. The motion to withdraw is moot.

BY THE COURT:

/s/ Myron T. Steele
Chief Justice

² *Penson v. Ohio*, 488 U.S. 75, 83 (1988); *McCoy v. Court of Appeals of Wisconsin*, 486 U.S. 429, 442 (1988); *Anders v. California*, 386 U.S. 738, 744 (1967).